

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI  
EASTERN DIVISION

REGIONS BANK

PLAINTIFF/PETITIONER

v.

CIVIL ACTION NO. 4:09cv32-TSL-LRA

IRA S. HERRINGTON

DEFENDANT/RESPONDENT

**FINAL DEFAULT JUDGMENT**  
**COMPELLING ARBITRATION**

This Action came on for hearing on the [8] Motion of the Plaintiff/Petitioner Regions Bank ("Regions") for a final default judgment pursuant to Rule 55(b) of the Federal Rules of Civil Procedure on its [1] Complaint and Petition for Order Compelling Arbitration and For Other Relief against Defendant/Respondent Ira S. Herrington ("Herrington").

This Court FINDS that Herrington has been duly served with a [5 & 1] Summons and Complaint in this matter on March 25, 2009, and that Herrington is not an infant, on active duty with the United States Armed Forces or an unrepresented incompetent person, yet Herrington has failed to plead or otherwise defend, and his default has been duly entered by the Clerk [7].

This Court further FINDS AS FOLLOWS:

1. 1. This Court has subject matter jurisdiction over this Action;
2. This Court has *in personam* jurisdiction over Herrington;
3. Venue is proper in this Court;
4. Service of process [5] on Herrington was proper;
5. Herrington has failed to answer or otherwise defend as to Regions' [1] Complaint, within the time set out by 9 U.S.C. § 4;
6. A proper [7] entry of default has been made by the Clerk of this Court; and
7. In order to enable this Court to enter judgment or to carry it into effect, it is not necessary to take into account or to determine the amount of damages or to establish the truth of any averment by evidence or to make an investigation of any other matter, as the sole relief sought in Regions' Complaint is declaratory and

injunctive in nature.

WHEREFORE, IT IS HEREBY ORDERED and ADJUDGED that:

- (1) FINAL JUDGMENT is granted in favor of Regions against Herrington for the relief requested in Regions' [1] Complaint;
- (2) Should Herrington choose to pursue any of the claims against Regions or any other covered person<sup>1</sup> in *Ira S. Herrington v. Jack H. Wilson d/b/a Wilson Construction, Inc., Glenn Construction, Inc., AmSouth Bank, and Regions Bank, as Successor in Interests to AmSouth Bank*; in the Circuit Court of Harrison County, Mississippi, First Judicial District; Civil Action No. A2401-08-479 or otherwise, Herrington is ENJOINED to arbitrate, not litigate, all such claims;
- (3) Pursuant to 28 U.S.C. §§ 1651 & 2283 and other law, Herrington is ENJOINED from proceeding with or attempting to judicially prosecute any claims against Regions or any other covered person in *Ira S. Herrington v. Jack H. Wilson d/b/a Wilson Construction, Inc., Glenn Construction, Inc., AmSouth Bank, and Regions Bank, as Successor in Interests to AmSouth Bank*; in the Circuit Court of Harrison County, Mississippi, First Judicial District; Civil Action No. A2401-08-479 or otherwise, until any resulting arbitration(s) have been conducted, concluded and confirmed in accordance with the terms of the applicable arbitration provisions; and
- (4) All Herrington's claims which were or could have been asserted Regions and any other covered person in *Ira S. Herrington v. Jack H. Wilson d/b/a Wilson Construction, Inc., Glenn Construction, Inc., AmSouth Bank, and Regions Bank, as Successor in Interests to AmSouth Bank*; in the Circuit Court of Harrison County, Mississippi, First Judicial District; Civil Action No. A2401-08-479 are hereby permanently STAYED and ENJOINED until any resulting arbitration(s) have been conducted, concluded and confirmed in accordance with the applicable arbitration provisions.

SO ORDERED and ADJUDGED, this the 7th day of April, 2009.

/S/ TOM S. LEE

UNITED STATES DISTRICT JUDGE

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<sup>1</sup>

By "covered person," this Court means a person covered by the terms of the applicable arbitration provisions.

SUBMITTED BY:

s/E. Barney Robinson III (MSB #09432)

E. Barney Robinson III (MSB #09432)

Benjamin M. Watson (MSB #100078)

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